Role of Board of directors and its relevance on corporate governance

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The Introduction

The corporate board of directors didn’t develop as an institution to manage the business corporation.Rather it is an institution the business corporation inherited when the business corporation evolved out if societies of independent merchants.

How the dynamism in the role of Board of directors has been observed?

Post World War II

- After world war II, the US experienced strong economic growth, which strongly impacted the history of corporate governance,. Corporations were thriving and proliferating . Managers primarily called the shots and expected board of directors and shareholders to follow.

- In 1970s, corporate governance from the perspective of board of directors saw a change , which is the SEC(Securities and Exchange Commission) prompted the New York Exchange(NYSE) to require each listed corporation to have an audit committee composed of alk indepent board directors.
- Businesses in 1980s, had concerns regarding the draft recommended the draft recommended that boards support mostly independent directors and establish audit and nominated committees. Corporate advocates were concerned that if companies implemented these measures. It would increase liability risks for board directors.
- The period of stakeholder activism- investors started to advocate for more independent directors and to based executive pay a performance rather than corporate size.

2008- financial crisis in US, which required stability in the market

- 2010- Board of directors felt more pressure than ever before the important good governance practices like transparency and accountability. Strong governance principles encouraged corporations to have a majority of independent directors and well composed diverse boards.

The introduction on the part of Board of directors-

The corporate board directors continuously face the challenge of aligning the interests of the board ,management, investors, shareholders and stakeholders.

Corporate governance is mainly concerned with the board of directors. The key function of the board of directors is to ensuring the growth of the company while meeting the interest of the stakeholders. The directors have on them the responsibility of establishing vision, mission and values of the organization, setting upmthe strategy and structure,delegating responsibility to the management and exercising accountability to shareholders and responsibility to stakeholders.

The primacy of board of directors from the shareholders perspective-

The board of directors has to exercise strategic oversight over business operations. Simultaneously the board has to ensure compliance with the legal framework, integrity of thecfinancial accounting and reporting systems and credibility in the eyes of the stakeholders through proper and timely disclosure. The board has s fiduciary duty with respect to the shareholders that is the board has financial and other responsibilities to keep the corporation running efficiently and effectively towards achieving its stated goals and objectives. The board and top management should conduct themselves so as to meet the expectation of operational transparency to stakeholders while at the same time maintaining the confidentiality of information in order to foster a culture of good decision making.

The functions of the board-

1. Reviewing ang guiding corporate strategy, major plans of action , risk policy, annual budgets, and business plans,setting performance objectives, monitoring implementation and corporate performance and overseeing major capital expenditures,acquisitions and divestments.

2. Monitoring the effectiveness of the company's governance practices and making changes as needed.
3. Selecting, compensating,monitoring, and when necessary replacing key executives and overseeing succession planning.
4. Aligning key executive and board remuneration with the longer term interests of the company and its shareholders.
5. Ensuring a transparent board nomination process with the diversity of thought, experience, knowledge, perspective and gender in the board.
6. Monitoring and managing potential conflicts of interests of management board members and shareholders including misuse of corporate assets and abuse in related party transactions.
7. Ensuring the integrity of the company's accounting and financial reporting systems including the independent audit and that appreciate systems of control are in place, in particular, systems for risk management , financial, and operational control and compliance with the laws and relevant standards.
8. Overseeing the process of disclosure and communication
9. Monitoring and reviewing board evaluation framework.

An analysis on executive remuneration-

Sl no	Conditions	Maximum remuneration in a year
1	Remuneration payable to directors who are neither managing director not whole time directors	1% of the net profits of the company if there is a managing director of whole time directors
2	Remuneration payable to directors who are neither managing directors nor whole time directors	3% of the net profits of the company if there is no managing director or whole time director

However, a public company can pay a managerial remuneration in excess of 11% by passing a special resolution approved by the shareholders and subject to compliance of schedule V conditions.

Responsibilities of the board-

1. The board should provide the strategic guidance to the company , ensure effective monitoring of the management and should be accountable to the company and the shareholders
2. The board of should set a corporate culture and the values by which executives throughout a group will behave
3. Board members should act on a fully informed basis, in good faith, with due diligence and care and in best interest of the company and the shareholders.
4. The board should encourage continuing directors training to ensure that the board members are kept up to date
5. Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly
6. The board should apply high ethical standards. It should take into account the interests of stakeholders.
7. The board should be able to exercise objective independent judgements or corporate affairs.
8. Boards should consider assigning a sufficient number of non executive board members capable of exercising independent judgements to tasks where there is a potential for conflict of interests.
9. The board should ensure that ,while rightly encouraging positive thinking ,these do not result in over optimism that either leads to significant risks not being recognized or exposes the company to excessive risks
10. The board should have the ability to ‘step back’ to assist executive management by challenging the assumptions underlying. Strategy, strategic initiatives , risk appetite , exposures, and the key areas of the companies focus

12. Board members should be able to commit themselves , effectively to their responsibilities

13. In order to fulfill their responsibilities board members should have access to accurate , relevant and timely information.

14. The board and senior management should facilitate the independent directors to perform their role effectively as a board members and also a member of a committee.

In fact, directors owe to its shareholders two types of duties which are considered fiduciary duties which are considered fiduciary duties-

1. Duty of loyalty- it is the responsibilities of the directors to be loyal to the shareholders and act honestly to protect the company's interest without personal gain and try to avoid conflict of interest .

2. Duty of care- Directors should make decision with consideration of all possible alternatives and information with reasonable business judgement.

The characteristics of board members- board selection

Generally, board of directors in chosen with comment from the shareholders. Therefore, the board appointment must be approved in the annual shareholders meetings.

- Ethical standard- integrity and accountability. This is the most important characteristics of the directors. They must be selected according to the ethical standards that are witnessed by the public . The directors sould be a person of integrity and are ready to protect shareholders interest.
- Independent- directors should be independent in this business judgement.
- Financial literacy- this characteristic should be the easiest of all, since directors can be trained and updated on their financial capability.

The problems of board of directors : surveys on board of directors and business ethics- How they managed to erase off those challenges-

1. Board meetings were concerned regularly on the quaterly basis.
2. There was establishment of audit committees set up by various organisations
3. There was a formal code of business ethics
4. Improvement of good corporate governance practices through the board of directors
5. Regulatory approach towards improving the roles and responsibilities of the board of directors.
6. Voluntary approach towards improving the roles and responsibilities of the board of directors- education for board of directors

Powers of the board-

The board of directors of a company has all such powers,to do all such acts and things as the company is authorised to exercise and do subject to the following provisions contained on that behalf-

- In the companies act or
- In the memorandum of articles or
- In any regulations not inconsistent there with and duty made thereunder including regulations mae by the company in general meeting

The board of directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the board, namely -

- To make calls on shareholders in respect of money unpaid on their shares
- To authorise buy back of securities under section 68
- To issue securities, including debentures, whether in or outside India
- To invest the funds of the company
- To approve financial statement and the boards report
- To diversify the business of the company

How the boards capacity is being dealt with the company's management though becomes important in working as a part of corporate governance-

The relationship between the board of directors and the management team is crucial to effective corporate governance. The board of directors and the management team is crucial to effective corporate governance. The board of directors is responsible for providing strategic direction and oversight for the company. At the same time, the management team is responsible for implementing the company strategy and day to day operations. The board of directors works closely with the management team to ensure that the company goals and objectives are met. Effective communication and collaboration between the board of directors and the management team are essential for good governance.